

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JARVIS MCKEE,

Petitioner

v.

//

CIVIL ACTION NO. 1:09CV57
(Judge Keeley)

KUMA J. DEBOO, Warden,

Respondent.

ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

On May 5, 2009, pro se petitioner Jarvis McKee ("McKee") filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the Bureau of Prison's ("BOP") calculation of his federal sentence. In his petition, McKee alleges that the BOP denied him credit for time served between July 12, 2006, the date of his federal indictment, and January 12, 2007, the date his state sentence was imposed. McKee, therefore, contends that his sentence computation is incorrect.

The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09. On September 10, 2009, Magistrate Judge Kaull issued a Report and Recommendation (dkt. no. 11) in which he determined that McKee had failed to exhaust his administrative remedies pursuant to

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the requirements of the Prison Litigation Reform Act. See 42 U.S.C. § 1997(e)(a). Magistrate Judge Kaul1 also determined, following a review of McKee's sentence computation, that the BOP had recalculated McKee's sentence on July 10, 2009 and applied credit to his federal sentence for the requested time period. Accordingly, Magistrate Judge Kaul1 recommended that the respondent's "Motion to Dismiss or in the Alternative Motion for Summary Judgment" (dkt. no. 7) be granted and McKee's petition (dkt no. 1) be denied and the case dismissed.

The Report and Recommendation also specifically warned that failure to object to the report and recommendation would result in the waiver of any appellate rights on this issue. The parties failed to file any objections.¹

Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt no. 11), **GRANTS** the respondent's motion to dismiss (dkt no. 7), **DENIES** the petition (dkt. no.1) and **ORDERS** the case **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

¹ McKee's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this Order to counsel of record. The Clerk is further directed to mail a copy of this Order to the pro se petitioner, certified mail, return receipt requested.

Dated: January 25, 2010.

/S/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE